

July 24, 2014



**Talbot County Planning Commission**

**Final Decision Summary**

Wednesday, January 9, 2013 at 5:30 p.m.

Bradley Meeting Room, Talbot County Courthouse

11 N. Washington Street, Easton, Maryland

**County Attendance for Public Hearing:**

Planning Commission Members:

William Boicourt  
Thomas Hughes  
Michael Sullivan  
John Trax  
Paul Spies

Staff:

Sandy Coyman, Planning Officer  
Mary Kay Verdery, Assistant Planning Officer  
Carole Sellman, Recording Secretary

**1. Call to Order**—Commissioner Trax called the meeting to order at 5:37 p.m.

**2. Old Business**

- a. Public Hearing Continued: Flood Insurance Rate Maps and Floodplain Management Ordinance drafted by Environmental Resources Management (ERM)—Mary Kay Verdery, Assistant Planning Officer.

Commissioner Trax stated the Commission was continuing the discussion of this matter from the January 2<sup>nd</sup> meeting. He further stated this meeting was a public hearing and asked the Commission members for any comments. There were none. Commissioner Trax then opened the floor to the public.

Charles Goebel, Architect and Planner, stated that he had not read the changes or new language and was interested in where to find them. Ms. Verdery responded that the draft ordinance can be found on the Talbot County Government website.

An audience member who did not state his name asked where to get a copy if he did not have a computer. Ms. Verdery explained if they would give their name and number her office would mail a copy or they can come into the Planning and Permits Office for additional information.

Ms. Verdery gave a short overview of the reasons that Talbot County is updating the mapping and the benefits to Talbot County and its citizens.

Chairman Hughes and Vice Chairman Boicourt arrived at 6:00 p.m.

- b. Shore Health Systems Developers Rights and Responsibilities (DRRA)—Ryan Showalter, Agent, Mike Pullen, County Attorney.

The architects provided the Commission with exhibits of the site plan, overview of the hospital, view of a room, and other views of the site.

Mr. Pullen provided the Commission with a brief procedural history. In July of 2008 the County entered into two option agreements to acquire property. In August a Memorandum of Understanding was drafted between the Town, the County, and Shore Health. In January of 2009 the County Council adopted the comprehensive plan amendment to make this site consistent with the proposed use as a regional medical center and hospital. In January 2009 the Council adopted Chapter 50 of the County's code, which included a developers rights and responsibilities agreement (DRRA) statute which says "upon receipt of a petition for approval of a DRRA the County Council refers that to the Planning Commission for determination as to whether the proposed agreement is consistent with the comprehensive plan".

The DRRA legislation was created to allow for substantial capital investment for infrastructure (\$280,000,000.00 over a 30 year period), and to give the investors sufficient certainty that the land use regulations are not going to change substantially during the term of the DRRA. That is accomplished through vesting. The vesting freezes land use regulations in place as they are in existence on the effective date of the regulations, all existing town and county zoning ordinances, land use regulations environmental restrictions, comprehensive plans are essentially frozen in place, subject to certain exceptions.

The first is required by the enabling legislation on the state level and has been included in local ordinance which provides that vesting does not prevent compliance with subsequently enacted laws that either the town or county would enact that are essential to ensure public health, safety or welfare. Impact fees and exactions are also exempt. The County road ordinance is another exception to the vesting provisions. Building and improvements standards, things like fire codes, building codes, plumbing codes, electrical codes, all are a national standards and typically get amended every 3 years, as those evolve during the course of the 30 year term, they will be applied as amended.

If state or federal government enact more stringent laws for land use there will be no vesting of such laws and typically they will require the local jurisdiction to enforce those restrictions. The local jurisdiction cannot be more restrictive than the state or federal requirements. Nonconflicting subsequent land use regulations are also exempt so if the zoning ordinance were to be amended but not in a way to conflict with the restrictions in place under the DRRA those zoning ordinances would be applicable.

The agreement divides the property in two sections:

1. Section 1 is identified as Lot 3, about 77 acres some traffic studies were done and certain assumptions made, i.e., 410 square foot hospital, 100 square foot medical building and ambulatory care facility— The estimated traffic generation from those uses would not require road improvements..
2. Section 2 (Lots 1,2 and 5) would have less vesting, the Developers' Rights and Responsibilities Agreement provides for improvements that would be reasonably required by normal engineering standards (Lot 4 stays w/community center). Neither town nor County have an adequate public facilities ordinance but if they were to adopt one Section 2 would not be exempt.

For stormwater management, forest conservation, there is a 10 year window within which development in Section 2 is still subject to laws as they stand when the DRRA is signed, after that they must comply with the codes current at that time.

The property is within Easton's town boundaries and the property must meet its zoning and land use restrictions. The DRRA includes both flexibility for town to change and limits discretion to the statement of purpose set forth in the Town's zoning code's Section 411 of Regional Health Care Zone.

Commissioner Hughes requested that Mr. Pullen briefly summarize Section 411 of the Regional Health Care Zone. Mr. Pullen pointed out that the RH Regional Health Care district is intended to provide for and encourage a regional hospital and related health care facilities in a campus setting and to identify and recognize the importance of such institutions and related uses to continue to be located within and serving the town. These regulations are also intended to project adjacent properties from the potential adverse impacts from such facilities by establishing development standards to which the hospital and related uses must conform.

The district is intended to include amenities services and uses offered primarily for patients and their families, health care providers, administrators, employees, visitors and other users of facilities located within the district. In other words, it is consistent with the campus setting idea so that a visitor to the hospital might be able to stop in a florist shop, pharmacy, or perhaps a dry cleaner or a bank that would be associated with services for employees, visitors and their patients.

The County will extend water and sewer to site. These extensions will extend to the property line only. Currently there is no requirement for a water tower, if it becomes necessary later county has no obligation to contribute.

The site plan does not include site access from Halem School Road. Should this become necessary it will require a permit, which will be subject to County review.

144 Goldsborough Neck Road also lies in the project's drainage area; a depressed area  
145 regularly floods in substantial storms. The County and Shore Health agreed to  
146 design, build and maintain storm management to handle 100 year storm event. .  
147

148 A new Community Center entrance will be created to the west of the Community  
149 Center. The existing entrance will be transferred to Shore Health. The Regional  
150 Medical Center entrance will not be constructed until second phase of road  
151 improvements; it will include a deceleration lane in front of Community Center.  
152 The County will transfer land for relocation of state highway.  
153

154 Talbot County and State Highway Administration (SHA) will be entering into a  
155 road transfer agreement. Once MD662 is relocated, SHA will convey to County  
156 the existing MD 662 roadbed. The County will then formally close existing public  
157 road and transfer same to Shore Health for \$1.00 and they will incorporate into  
158 their site.  
159

160 Ryan Showalter agreed with Mr. Pullen's statements and reiterated that the  
161 Planning Commission's role is to make a recommendation to the County Council  
162 as to whether or not this proposed agreement is consistent with your  
163 comprehensive plan. Mr. Showalter submitted a proposed resolution that has a  
164 finding of fact, but a couple of edits need to be made.  
165

166 The Comprehensive Plan identifies Memorial Hospital at Easton as the primary  
167 health care provider not only for Talbot County but for the entire Mid-Shore  
168 Region. There is likely to be an increase in demand for health care. The  
169 Comprehensive Plan was amended by County Council Resolution 159 – designate  
170 this site as a priority 1 growth area. The plan identifies this property as the site to  
171 accommodate a regional medical health care facility and related medical uses.  
172

173 Lot 4 is not subject to the DRRA because it is being retained by the County for  
174 the Community Center. The plan recommends that development occur in  
175 accordance with guidelines that enhance outward structural appearance of County.  
176 Easton's code does not require a master plan provision currently. Easton's code  
177 does require Shore Health in Section 4.8 for any development outside of Section 1  
178 to produce a nonbinding master plan to address coordination and to show the  
179 design relationship between adjacent buildings, circulation for pedestrians and  
180 vehicles, relationship of buildings to site, signage, etc.  
181

182  
183 Commissioner Hughes questioned the amended Section 10.2 – if a regional health  
184 care facility is not built everything reverts to status quo. Wouldn't the removal of  
185 infrastructure be automatic in that case?  
186

187 Mr. Showalter stated that it was possible that the County could elect to unwind  
188 the project from Shore Health, reacquire the property, and decide a portion of the

property is necessary to expand the Community Center and water and sewer is beneficial to serve the failing system at the Community Center.

Commissioner Hughes stated it was his understanding that Easton Utilities does not run utilities unless they have annexed the land and if the deal is over the effectiveness of all three parcels it shall be terminated.

Mr. Showalter stated there are two instances where the Town has facilities outside its jurisdictional boundaries. This provision is intended to address circumstances where Shore has an obligation to reimburse the County for its infrastructure and pay for removing it.

Mr. Pullen stated that this scenario would only evolve if the County were the owner of the property. The language was intended to give the County the option as the owner. There is a 15 year time period to give the County this option, so there should not be a risk.

Mr. Hughes stated that since this is just a worksession and they have just received a number of documents he desires a final clean copy. The Commission would therefore take final action at their February 6<sup>th</sup> meeting.

Mr. Pullen stated they have a meeting on January 22<sup>nd</sup>. It can be put on the February Planning Commission agenda and the County Council January 22<sup>nd</sup> agenda. A clean copy will be provided to the Commission.

Mr. Pullen noted for the record, he wanted to thank his colleagues for their effort – Sharon Von Emburg, Joe Stephens, consultant, Ryan Showalter diligent, truly pleasant to work with, Mike Silgent, Sandy Coyman, and Mary Kay Verdery. Got attention deserved, proud of work product, thank all those people who contributed so substantially over sustained period of time.

Commissioner Hughes seconded and stated that he is looking forward to seeing the project begin.

### **3. New Business—Draft Flood Plain Ordinance Joint Work Session**

County Attendance for Work Session:

County Council Members:

Laura Price  
Dirck Bartlett  
Andy Hollis  
Corey Pack  
Thomas Duncan

Planning Commission Members:

William Boicourt  
Thomas Hughes  
Michael Sullivan  
John Trax  
Paul Spies

244 Staff: 249  
250  
245 Sandy Coyman, Planning Officer 251  
246 Mary Kay Verdery, Assistant Planning Officer 252  
247 Carole Sellman, Recording Secretary 253  
248 Mark Cohoon, GIS, Dept of Public Works 254  
255  
256 c. Flood Insurance Rate Maps and Floodplain Management Ordinance Update—  
257 Mary Kay Verdery, Assistant Planning Officer and Jenifer Huff, Environmental  
258 Resources Management (ERM).  
259  
260 Ms. Verdery introduced Jenifer Huff of Environmental Resources Management  
261 (ERM). The December 31<sup>st</sup> outline summary of changes highlights areas where  
262 the proposed floodplain ordinance will differ from state and federal standards.  
263  
264 Talbot County’s original floodplain ordinance was adopted in 1985 and has not  
265 been comprehensively updated since 1992. We are required to update our maps  
266 and ordinance by FEMA in order to participate in Flood Insurance Program. The  
267 County must comply with federal requirements, which require the adoption and  
268 enforcement of the floodplain ordinance. The ordinance is designed to reduce  
269 flood threats to life and property. Maryland’s guidelines provide a model  
270 ordinance which is designed to be equal to or surpasses federal requirements.  
271  
272 Ms. Huff explained the two basic types of special flood areas: “A” Zone and “V”  
273 Zones. “V” Zones are coastal high hazard areas, that are subject to strong winds,  
274 high velocity wave action of three feet or higher. “A” zones may be either tidal or  
275 nontidal waters, which are not subject to high wave action. A new zone, the  
276 coastal “A” zone, identifies areas with moderate wave action of one and a half to  
277 three feet in height.  
278  
279 Ms. Verdery added that pictures will be included in the ordinance to illustrate the  
280 zones and some basic concepts showing base flood elevation and other important  
281 flood considerations will be included in the final ordinance.  
282  
283 She noted that the Maryland Department of the Environment recommends that  
284 Coastal “A” zones be regulated more strictly than other “A” zones as they are  
285 subject to more intense flood and wave impacts.  
286  
287 Commissioner Bartlett asked if any V zones exist in Talbot County. Ms. Verdery  
288 stated that we do have some in the “V” Zone; they are located in Oxford,  
289 Tilghman and Claiborne, mostly along the Chesapeake Bay shoreline. The draft  
290 recommends that the lowest floor be elevated two feet and we will get additional  
291 Community Rating System<sup>1</sup> credit. Ms. Huff stated that FEMA provides

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<sup>1</sup> FEMA uses the Community Rating System to evaluate a local flood ordinance. It assigns points for certain provisions above its minimum standards. If sufficient points are earned, insurance rate discounts accrue to the jurisdiction’s flood insurance rate payers.

technical guides to help land owners and code enforcement staff better understand the concepts and requirement of flood ordinances.

Lateral additions that are substantial improvements must be raised to flood protection elevation. FEMA made an exception for horizontal expansions not connected to the principal structure; they do not need to meet flood protection elevation.

Commissioner Bartlett asked how the Planning Office determined the value of the addition, how is it calculated when higher end finishes are used in a project? Ms. Verdery explained that the value is based on the construction value, i.e., building materials, electrical, plumbing, etc., not those high value finishes. Mr. Coyman further explained that soon the Planning Office would be using the International Code Council's minimum standards to determine construction costs. During the permit review process, the plans examiner would estimate construction cost using the International Code Council (ICC) minimum standards for the purpose of calculating the permit fees.

Commissioner Spies suggested a twelve month period from the time of occupancy permit issuance to issuance of a new construction permit for the purposes of considering a continuing addition.

Ms Verdery related the following ordinance elements and concepts:

1. Substantial damage is damage to a structure where the cost of repair exceeds 50 percent of the structure's market value before the damage. Any repair to a substantially damaged property will automatically be considered a substantial repair. The group requested that this concept be clarified.
2. Elevated buildings in "V" zones may only have 300 square feet of enclosed space below the lowest floor, A recorded nonconversion to living space agreement is required for such structures.
3. Accessory structures need not be elevated if not used as living space and they can only be used for storage. Such structures will be limited to 100 square feet in "V" and Coastal "A" Zones. The Commission asked about barns or other structures. Ms. Huff stated other buildings would need to be elevated. Commissioner Trax asked about the possibility of breakaway walls. Ms. Huff stated that was a possibility.
4. Use of fill within flood plains, currently is restricted to 600 cubic yards. The state questioned the need to continue this regulation, in riverine situations such fill alters water level and possibly its course, in tidal areas fill has little effect on flood characteristics. State guidelines suggest limits on filling wetlands, and removing the 600 cubic yard maximum. It also

338 suggest limiting in the “V” and Coastal “A” zones fill to only minor  
339 grading and landscaping and to support patios, parking pads or swimming  
340 pool (amount up to 50 cubic yards), if not in “V” or Coastal “A”, if  
341 nontidal, fill must be excavated in area equivalent in development site size  
342 and volume, if use fill to create and raise elevation get revision letter from  
343 FEMA.

- 344
- 345 5. Critical and essential facilities such as hospitals should not be in “V” zone.  
346 We will get CRS credits for not allowing them in flood zones.
- 347
- 348 6. Federal regulations allow variances from the floodplain management  
349 ordinances and the state model recommended that a list of factors for the  
350 Board of Appeals to consider be added. The group concurred with this  
351 recommendation.
- 352
- 353 7. Permits issued under floodplain management ordinance may be extended  
354 for limited periods. FEMA requires limiting such extensions to 90 days at  
355 a time; our current extension period is 180.
- 356

357 Mr. Cohoon stated that the riverine maps include stormwater generated flooding  
358 in nontidal streams and were very detailed. The FEMA contractor used the  
359 County’s topographic data and remapped coastal areas with the old floodplain  
360 base. Coastal studies reviewed Eastern Shore of Maryland and Delaware.  
361 Historical storm records were used to generate estimated flooding and surge  
362 conditions to derive base flood elevations. For the most part this resulted in  
363 reduced floodplains along Talbot County’s bay front.

364

365 Commissioner Hughes asked how many people have come in and were told that  
366 they are no longer in floodplain? Ms. Verdery stated we have had both scenarios,  
367 new properties in floodplain and properties taken out of floodplain, though  
368 typically we have more frequently heard the pre-update maps are fairly consistent  
369 with local flood experience.

370

371 Commissioner Hughes asked if there is an option for the person who said they  
372 were not getting flooded to opt out.

373 Ms. Verdery stated they can apply for a letter of map amendment (LOMA) and  
374 prove they exceed base flood elevation.

375

376 Commissioner Boicourt asked if that can occur at any time. Ms. Verdery said that  
377 can occur at any time. We had an appeal period and we had 10 to 12 people who  
378 appealed their zone designation; all were approved. Council member Pack asked  
379 if all used the same surveyor to have this done. Ms. Verdery stated several  
380 surveyors provide the data for these appeals.

381

382 Council member Price asked why we are going through a two step process.



383 Ms. Verdery responded that we are required to make a recommendation to the  
384 County Council to adopt floodplain ordinance for the riverine maps. The coastal  
385 flood zone maps will come later. The timing of the two sets of maps was designed  
386 to be a year or so apart, but the riverine maps fell behind schedule.

387  
388 Ms. Verdery summarized that the purpose of the maps is to identify high risk  
389 areas; it does not mean you are not subject to a flood if you are not in a mapped  
390 flood zone. We would not tell anyone whether they are in or out of a flood zone  
391 not to get flood insurance. Rates will be lower if the map shows they are out. The  
392 flood information provides a list of repetitive loss properties. These properties  
393 may be eligible for federal assistance to reduce their flood liability.

394  
395 Commissioner Hughes suggested that the work session can close and that the  
396 public hearing remain open to written comments until January 25, 2013. The  
397 Commission concurred.

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399 **4. Adjournment**—Commissioner Hughes adjourned the meeting at 8:45 p.m.  
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403 N:\Planning & Zoning\Planning Commission\Minutes Planning Commission\2013\January\January 9 Draft Joint Summary to PC  
404 Coyman Comments 1-30-13.docx